

Message Text

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C O N F I D E N T I A L STATE 190005

SANTIAGO FOR AMB ELLIOT L RICHARDSON, B.A. FOR NORMAN WULF

FOLLOWING REPEAT MOSCOW 17520 ACTION SECSTATE INFO LONDON
NEW DELHI USUN NY JUL 26.

QUOTE: C O N F I D E N T I A L MOSCOW 17520

NEW DELHI FOR LOS DELEGATION TO AALCC

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: U.S.-U.S.S.R. CONSULTATIONS

SUMMARY: CONSULTATIONS CORDIAL AND RAISED CONCRETE
POSSIBILITY OF CLOSER U.S.-SOVIET COOPERATION ON
OUTSTANDING ISSUES, BUT SOVIET TURN-AROUND TIME ON
CONTINENTAL SHELF MAY BE CONSIDERABLE. BASIS WOULD
BE FAIRLY MODEST TECHNICAL AMENDMENTS ON EEZ, EMPHASIS
ON REDUCING COASTAL STATE NON-RESOURCE RIGHTS REGARDING
CONTINENTAL SHELF BEYOND 200-MILES (INCLUDING
INSTALLATIONS AND POSSIBLY SCIENTIFIC RESEARCH) PLUS
POSSIBLE MINOR ADJUSTMENTS ON BOUNDARY FORMULA, AT
CONFIDENTIAL

PAGE 02 STATE 190005

LEAST SOME AMENDMENTS ON SCIENTIFIC RESEARCH IN THE
EEZ, AND FAIRLY COMPLETE ACCOMMODATION OF SOVIET
OPPOSITION TO DISPUTE SETTLEMENT ON DELIMITATION.
SOVIET CONTINENTAL SHELF PROBLEM IS STRATEGIC, AND
CONCERNS THE NORTH ATLANTIC, AS WELL AS MADAGASCAR
AND THE INDIAN OCEAN. SOVIETS MAY WANT SOME TEXTUAL
"PIECE OF PAPER" EMERGING FROM N.Y. SESSION - PERHAPS
LESS THAN REVISED ICNT, BUT MORE THAN REPORTS. END
SUMMARY.

1. GENERAL. WITH KOZYREV IN BAGHDAD AND KHLESTOV IN PRAGUE ON BILATERAL PROBLEMS, OXMAN AND EMBOFFS MET WITH SOVDEL LED BY KOVALEV, AS ACTING HEAD OF LEGAL AND TREATIES BUREAU, AND INCLUDING PROFESSOR MOLODTSOV (C-2 REP), YAKOVLEV (C-1), AND KHABIROV OF FOREIGN MINISTRY. KOVALEV WELCOMED BILATERAL CONSULTATIONS "DESPITE SOME BILATERAL DIFFERENCES BETWEEN OUR DELEGATIONS AND OUR TWO COUNTRIES," THANKED U.S. FOR SUGGESTING IDEA, AND IN REFERENCE TO "TURN-AROUND TIME" PROBLEM, PLACED RESPONSIBILITY ON SOVIET SIDE FOR TIMING TALKS SO CLOSE TO RESUMPTION OF NEXT SESSION. KOVALEV SEEMED THOROUGHLY IN COMMAND OF ALL ISSUES UNDER DISCUSSION, AND MAY BE ASSUMING MORE GENERAL ROLE AS TOP LAWYER ON DELEGATION. AMBASSADOR KOLOSOVSKY ATTENDED DINNER JULY 23 BY EMBOFF FOR OXMAN, WHERE MAJOR POINTS REVIEWED.

2. SUBJECTS DISCUSSED: EEZ, CONTINENTAL SHELF, MARINE SCIENTIFIC RESEARCH, DISPUTE SETTLEMENT, AND ORGANIZATION OF WORK. SOVIETS SEE THESE SUBSTANTIVE ISSUES AS A PACKAGE, AND EMPHASIZED POINT SEVERAL TIMES. DISCUSSIONS WERE REGARDED AS PREPARATORY TO U.S.-SOVIET BILATERAL IN N.Y. C-1 ISSUES TOUCHED ON CONFIDENTIAL

PAGE 03 STATE 190005

OCCASIONALLY BY YAKOVLEV, MAINLY IN CONTEXT OF ORGANIZATION OF WORK. PAPERS PRESENTED BY OXMAN FORWARDED TO DEPARTMENT BY AIRGRAM.

3. STATUS OF EEZ: BASIS OF DISCUSSION IN NEW YORK BILATERAL WOULD BE (1) "NO SOVEREIGNTY" AMENDMENT TO ARTICLE 55(1); (2) CHANGE IN TITLE OF PART VII TO "HIGH SEAS REGIME," (3) IN ARTICLE 58(1), MOVING WORDS QUOTE AND COMPATIBLE WITH THE OTHER PROVISIONS OF THE PRESENT CONVENTION UNQUOTE TO A POSITION AFTER THE WORDS QUOTE RELATED TO THESE FREEDOMS UNQUOTE. THUS, WE MIGHT EXPECT PROPOSAL TO DELETE ARTICLE 86 TO BE DROPPED (ALTHOUGH MOLODTSOV WAS STILL TRYING TO FIND OTHER WAYS TO REWORD OTHER HIGH SEAS ARTICLES). SOVIETS DO NOT LIKE IDEA OF INTERPRETIVE STATEMENT. KOVALEV SAID EVEN IF STATES LIKE MEXICO, VENEZUELA, COLOMBIA AND KENYA JOINED IN STATEMENT, WE COULD EXPECT PERU TO RALLY STATES LIKE TANZANIA, BRAZIL AND SOMALIA TO MAKE AN OPPOSITE STATEMENT. "WE HAVE ALWAYS HAD A RATHER RESTRAINED APPROACH" ON INTERPRETIVE STATEMENTS. KOVALEV ALSO AGREED THAT SOVIETS WOULD AVOID CREATING PUBLIC RECORD ON AMENDMENTS THAT COULD BE USED AGAINST US IF AMENDMENTS ARE NOT ADOPTED.

4. CONTINENTAL SHELF: AFTER CONSIDERABLE PRYING, SOVIETS IDENTIFIED PROBLEM AS FACT THAT IRISH FORMULA

ALLOWS CERTAIN COASTAL STATES TO EXTEND THEIR CONTINENTAL SHELVES TO THE MIDDLE OF THE OCEANS. WHEN ASKED WHERE, HE SAID THE NORTH ATLANTIC, BUT ALSO REFERRED TO MADAGASCAR AND THE INDIAN OCEAN. OXMAN ASSURED SOVIETS THAT BASIS OF BILATERAL COOPERATION IN LOS CONFERENCE FROM OUTSET HAD BEEN THAT NEITHER SIDE WOULD SEEK UNILATERAL ADVANTAGE OVER THE OTHER; OUR MAPS DID NOT INDICATE A NORTH ATLANTIC PROBLEM, OR EXTENSION OF INDIAN OCEAN SHELF VERY FAR BEYOND
CONFIDENTIAL

PAGE 04 STATE 190005

THE ECONOMIC ZONE OF SOME RPT SOME COASTAL STATE. KOVALEV SAID SOVIETS WERE ANALYZING THEIR MAPS. THIS REQUIRES ADDITIONAL SCIENTIFIC CALCULATION, WHICH MAY NOT BE COMPLETED BEFORE THE N.Y. SESSION. HE SHOWED CONSIDERABLE INTEREST IN LIST WE SUBMITTED OF ARTICLES DEALING WITH NON-RESOURCE RIGHTS OF COASTAL STATE OVER SHELF BEYOND 200-MILES, AND POSSIBILITY OF DEALING WITH MATTER BY STRENGTHENING NON-RESOURCE RIGHTS OF ALL STATES. SOVIETS FOCUSED ON ARTICLE 80 AND POSSIBILITY OF LIMITING COASTAL STATE INSTALLATIONS RIGHTS TO RESOURCE INSTALLATIONS ONLY. THERE WAS ALSO INCONCLUSIVE DISCUSSION OF 3 SCIENTIFIC RESEARCH OPTIONS FOR SHELF BEYOND 200 MILES: NO COASTAL STATE RIGHTS; NOTICE REGIME; CONSENT FOR RESEARCH REGARDING SHELF RESOURCES ONLY. IN CONTEXT OF DISCUSSION OF EMPHASIZING NON-RESOURCE ISSUES AS SOLUTION, KOVALEV STATED REGRET THAT OXMAN VISIT IS AT SUCH A LATE STAGE, PLACING RESPONSIBILITY ON SOVIET SIDE. HE DOUBTED IF SOVIETS COULD DIGEST OXMAN DOCUMENT BEFORE NEXT SESSION, WHICH "INTRODUCES NEW ELEMENT IN OUR ANALYSIS." "WE CAN'T SAY WHETHER WE CAN REVISE OUR POSITION ON THIS BASIS." HE THEN SAID SOVDEL STILL PROCEEDS FROM ASSUMPTION THAT ITS PROPOSAL IS BASIS FOR RESOLVING PROBLEM, AND STILL PUTS MAJOR EMPHASIS ON DISTANCE CRITERION (NOT NECESSARILY THE 100 MILE FIGURE). KOLOSOVSKY SHOWED CONSIDERABLE INTEREST AT DINNER IN ORIGINAL U.S. SLOPE PLUS 60-MILE PROPOSAL. WE OF COURSE POINTED OUT SOME COASTAL STATES FELT THIS ALONE WAS NOT ENOUGH.

5. SCIENTIFIC RESEARCH: OXMAN PARRIED SOVIET
CONFIDENTIAL

PAGE 05 STATE 190005

INQUIRIES AS TO WHETHER WE COULD STILL ACCEPT CASTANEDA TEXT, REFERRING TO FACT THAT WE WERE UNSUCCESSFUL IN GETTING QUICK AGREEMENT ON THOSE AMENDMENTS AT LAST SESSION AND, AS MATTER OF PRINCIPLE

GOING BEYOND SCIENCE, COULD NOT AGREE WITH POSITION THAT SOVIET COOPERATION ON SATISFACTION OF BASIC U.S. INTERESTS AT MULTILATERAL CONFERENCE SHOULD BE DEPENDENT ON POSITION OF THIRD COUNTRIES SUCH AS PAKISTAN. USDEL PROCEEDS ON ASSUMPTION SOVDEL WOULD NOT REGARD IT AS IN ITS INTERESTS TO TAKE POSITION THAT CONSENSUS EXISTED ON TEXTS TO WHICH USDEL HAS IMPORTANT OBJECTIONS. KOVALEV'S "PRE-LIMINARY COMMENTS" ON SCIENCE TEXTS PRESENTED BY US WERE AS FOLLOWS:

A. 242 BIS. HE DOES NOT LIKE NEGATIVE IMPLICATION THAT REASONABLE OPPORTUNITY CAN BE DENIED IN OTHER CASES. REFERENCE TO DAMAGE TO HEALTH IS NEW FOR ICNT (OXMAN NOTED ICNT ART. 146). WORDS "OUTSIDE THE JURISDICTION" SHOULD REFER TO ACTIVITIES, NOT GEOGRAPHY. SOVIETS HAVE COUNTER-PROPOSAL AS FOLLOWS:

"NEW ARTICLE 241 "BIS"

"ASSURANCE OF SAFE NAVIGATION AND THE POSSIBILITY TO CONDUCT OBSERVATIONS FOR WEATHER FORECAST

"THE PROVISIONS OF THIS PART OF THE CONVENTION SHALL NOT BE APPLIED TO THE NORMAL NAVIGATIONAL OBSERVATIONS AND MEASUREMENTS CONDUCTED BY THE SHIPS FOR ASSURING SAFE NAVIGATION, AND FOR DETERMINING OPTIMAL COURSE AND SPEED OF THE SHIP AS WELL AS FOR WEATHER FORECAST."

B. 244 BIS. "NO COMMENT."

CONFIDENTIAL

PAGE 06 STATE 190005

C. 247(B). LOOKS INTERESTING AND DESERVING OF SUPPORT.

D. 250(1)(D). SAME COMMENT.

E. 250(2). NO OBJECTION OF PRINCIPLE, BUT THESE ARE PRELIMINARY REMARKS.

F. 253. U.S. PROPOSAL MAY HINDER ADOPTION OF PRINCIPLE OF IMPLIED CONSENT, TO WHICH THERE IS STILL OPPOSITION. KOVALEV WOULD RATHER SOOTHE COASTAL STATES BY ADDING IDEA FROM CASTANEDA TEXT THAT 4 MONTH PERIOD IS MEASURED FROM DATE ON WHICH INFORMATION SUPPLIED AND CONSENT REQUESTED, WITHOUT RPT WITHOUT U.S. LANGUAGE, WHICH IS "NOT NECESSARY" AND "HARMFUL."

G. 254. KOVALEV MADE COUNTER-PROPOSAL AS FOLLOWS:

"NEW ARTICLES 254 AND 254 "BIS" ON THE BASIS
OF PRESENT ARTICLE 254:

"ARTICLE 254

"CESSATION OF RESEARCH ACTIVITIES

"THE COASTAL STATE SHALL HAVE THE RIGHT TO REQUIRE
THE CESSATION OF ANY RESEARCH ACTIVITIES IN PROGRESS
WITHIN ITS ECONOMIC ZONE OR ON ITS CONTINENTAL
SHELF IF THE RESEARCH PROJECT IS NOT BEING CONDUCTED
IN ACCORDANCE WITH THE INFORMATION INITIALLY
COMMUNICATED T THE COASTAL STATE AS PROVIDED UNDER
ARTICLE 249 REGARDING THE NATURE, OBJECTIVES,
CONFIDENTIAL

PAGE 07 STATE 190005

METHOD, MEANS OR GEOGRAPHICAL AREAS F THE PROJECT.

"ARTICLE 254 "BIS"

"SUSPENSION OF RESEARCH ACTIVITIES

"THE COASTAL STATE SHALL HAVE THE RIGHT TO
REQUIRE THE SUSPENSION OF ANY RESEARCH ACTIVITIES
IN PROGRESS WITHIN THE ECONOMIC ZONE OR ON ITS
CONTINENTAL SHELF IF THE STATE OR COMPETENT INTER-
NATIONAL ORGANIZATION CONDUCTING THE RESEARCH
PROJECT FAILS TO COMPLY WITH THE PROVISIONS OF
ARTICLE 250 CONCERNING THE RIGHTS OF THE COASTAL
STATE WITH RESPECT TO THE PROJECT AND COMPLIANCE
IS NOT SECURED WITHIN A REASONABLE PERIOD OF
TIME. ANY RESEARCH ACTIVITIES SUSPENDED UNDER
THIS ARTICLE SHALL NOT BE RESUMED WITHOUT THE
CONSENT OF THE COASTAL STATE."

WE EXPRESSED DOUBT THAT SUSPENSION/CESSATION
DISTINCTION MAKES MUCH DIFFERENCE, AS YOU CAN'T KEEP
A SHIP WAITING AROUND FOR TOO LONG. KOVALEV SAID
IT WOULD MAKE A DIFFERENCE FOR SCIENTIFIC RESEARCH
INSTALLATIONS.

H. 254(1)(A): "NO COMMENT" ON DELETING "INITIALLY."

I. 256. THE EXISTING TEXT IS IN THE INTERESTS
OF THE RESEARCHING STATE. IN FACT, THERE IS NO
REASON TO EXCLUDE SHIPS BEYOND THE ECONOMIC ZONE.
SOVIETS PROPOSED TO DELETE WORDS "DESIRING TO
CARRY OUT RESEARCH ACTIVITIES IN THE EXCLUSIVE
ECONOMIC ZONE OR ON THE CONTINENTAL SHELF."

J. 258. NEED ADDITIONAL TIME FOR STUDY.

CONFIDENTIAL

PAGE 08 STATE 190005

K. ARTICLES 247(1) AND 296(3)(A). KOVALEV LEFT THESE AMENDMENTS FOR LAST, SAYING THEY ARE OF IMPORTANCE IN PRINCIPLE. AT GENEVA SESSION, SOVDEL EXPRESSED WILLINGNESS TO ADOPT FAVORABLE APPROACH TOWARD U.S. PROPOSALS. BUT THESE QUESTIONS ARE VERY IMPORTANT, AND SOLUTION SHOULD BE SOUGHT IN THE CONTEXT OF OTHER ISSUES OF IMPORTANCE TO USSR, USA AND OTHER CONFERENCE PARTICIPANTS. HAVING PUBLICLY STATED THAT SOVDEL COULD ACCEPT TEXT AS IT STANDS, IT COULD NOT TAKE INITIATIVE ON MATTER. BUT, SPEAKING PRELIMINARILY, IN CONTEXT OF NEGOTIATIONS UNDERTAKEN BY OUR DELEGATIONS WITH OTHERS AND CONDUCTED IN A FAVORABLE WAY, SOVDEL IS READY TO PURSUE POLICY THAT CONSENSUS SHOULD INCLUDE THESE ELEMENTS.

6. TECHNOLOGY TRANSFER. SOVIET SCIENCE AMENDMENTS ACCOMPANIED BY FOLLOWING AMENDMENTS TO PART XIV:

"DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY

"ARTICLE 274

"DELETE WORDS "AND OTHER RELATED ACTIVITIES"

"ARTICLE 276

"IN PARAGRAPH 1, DELETE WORD "ACTIVITY""

7. DISPUTE SETTLEMENT. SOVDEL CAN STATE AT NEW YORK THAT ITS AGREEMENT TO TEXT ON DISPUTE SETTLEMENT ON LIVING RESOURCES IS LINKED TO QUESTION OF DISPUTE SETTLEMENT ON DELIMITATION. ON LATTER POINT, SOVDEL
CONFIDENTIAL

PAGE 09 STATE 190005

CAN GIVE ITS CONSENT ONLY TO SUCH WORDING AS IS BASED ON MEANS CHOSEN BY THE PARTIES. ICNT ON THIS MATTER IS "WORST POSSIBLE TEXT." THE SOVIETS SEEK U.S. HELP ON THE ISSUE IN N.Y. PROPER U.S. UNDERSTANDING AND COOPERATION ON THIS ISSUE WILL MAKE THINGS EASIER ON OTHER ISSUES OF INTEREST TO THE U.S. SIDE. THE SOVIETS AGREED TO GIVE SOHN DETAILED COMMENTS ON DOC. N67/20 AT START OF SESSION SO THAT WE COULD BEST COORDINATE TACTICS.

8. ORGANIZATION OF WORK.

A. SOVIETS AGREED WITH U.S. OBJECTIVE OF IN EFFECT CLOSING DOWN C2, C3 AND CDS NEGOTIATIONS BY END OF SESSION "SUBJECT TO SATISFACTION OF SOVIET POSITIONS ON ECONOMIC ZONE AND CONTINENTAL SHELF."

B. THEY OBJECT TO TREATMENT OF NG4 AS CLOSED, AT LEAST PENDING CONSULTATION WITH FRIENDS IN GROUP OF 53. THEY THINK AMERASINGHE "PRESTIGE" WOULD BE ENGAGED BY EXCLUSION. WE EXPLAINED OUR CONCERN THAT NEAR-CONSENSUS COULD UNRAVEL.

C. FOLLOWING LIST EMERGED OF OUTSTANDING NON-COMMITTEE 1 PROBLEMS: EEZ, CONTINENTAL SHELF, DELIMITATION AND RELATED DISPUTE SETTLEMENT QUESTION, SCIENCE AND RELATED DISPUTE SETTLEMENT, LL/GDS, AND INCLUSION OF CATEGORY 1 AND 2 POLLUTION AMENDMENTS; BUT SOVIETS ADDED THEIR AMENDMENTS ON ENCLOSED AND SEMI-ENCLOSED SEAS AND REMOVAL OF SUNKEN VESSELS. (ON LAST POINT, WHEN THEY ASKED FOR SUPPORT, WE INQUIRED IF THEY INTENDED TO CHANGE ENTIRE LAW OF MERCHANT SHIP SALVAGE.)

CONFIDENTIAL

PAGE 10 STATE 190005

D. SOVIETS WANT WG7 CONVENED IN N.Y. THEY AGREED TO EMPHASIZE DISPUTE SETTLEMENT, AND NOT RPT NOT SUBSTANCE OF ARTS. 74 AND 83 ON DELIMITATION. SOVIETS ASKED US TO APPROACH AMERASINGHE IN N.Y. TO MAKE SURE WG7 IS CONVENED; THEY ARE DOING THE SAME.

E. SOVIETS AGREE THAT WG-1 SHOULD MOVE ON TO ANNEX 2 AND THAT KOH SHOULD CONTINUE. WHILE APPARENTLY AGREEING THAT COUNCIL MAY NOT BE DECIDED UNTIL LATER, YAKOVLEV WONDERED IF NG-3 SHOULD MEET TO KEEP ENGO BUSY. YAKOVLEV REACTED STRONGLY TO SUGGESTION THAT THERE SHOULD BE NO REVISED ICNT, AND SAID AT LEAST THERE MUST BE SOME DOCUMENT OF AMENDMENTS, NOT JUST A REPORT. KOVALEV ADDED THAT IT WAS TOO EARLY TO TAKE POSITION ON MATTER. YAKOVLEV SAID PROGRESS COULD BE FAST IF U.S. COMES UP WITH NEW POSITION ON FINANCIAL ARRANGEMENTS, OR FINDS MEANS TO DEFER ISSUE. HE ALSO WONDERED WHEN AGREEMENT WOULD BE REACHED WITH FRANCE ON ANTI-MONOPOLY QUESTION.

9. RECOMMENDATIONS. OXMAN SUBMITS FOLLOWING RECOMMENDATIONS AND COMMENTS:

A. NEW DELHI. SOVIETS SEEM WORRIED THAT SPECIAL MEETING WAS CALLED TO RAILROAD THEM. RECOMMEND

USDEL LEAVE IT TO OTHERS TO SPELL OUT VIRTUES OF
IRISH FORMULA, AND LIMIT ITS COMMENTS ON SHELF
ISSUE TO WILLINGNESS TO WORK WITH MARGINEERS AND
SOVIETS TO FIND REASONABLE ACCOMMODATION, BUT
EXPRESS DOUBTS THAT DISTANCE FORMULA IS WAY TO DO
THIS. U.S. SHOULD NOT RPT NOT SEEM TO BE CONSORTING
WITH MARGIN STATES AGAINST SOVIETS; THIS COULD
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PAGE 11 STATE 190005

HAVE VERY BAD EFFECT GIVEN CLEAR SOVIET SUSPICIONS
REGARDING WESTERN STRATEGIC MOTIVES.

B. U.K. MINISTER HERE BRIEFED BY OXMAN ON FIRST
DAY OF TALKS (EEZ AND SHELF). URGE DEPARTMENT AND
EMBASSIES AVOID RPT AVOID EXPLICIT INDICATION TO
OTHER GOVERNMENTS OF PRECISE SOVIET GEOGRAPHIC CON-
CERNS ON SHELF PENDING EVALUATION BY AMBASSADOR
RICHARDSON. ABILITY OF U.S. TO PRESENT ITSELF
CREDIBLY AS ESSENTIALLY UNAFFECTED PROMOTER OF
CONSENSUS WAS CRITICAL TO BREAKING SOVDEL OUT OF
ITS SHELL AND GETTING IT TO TALK ABOUT COMMON
("NON-RESOURCE" STRATEGIC) BIG POWER PROBLEMS.
GIVEN NATURE OF PROBLEM, U.S. MAY WELL BE ONLY
POSSIBLE MEDIATOR ON ISSUE, AND OUR BROAD MARGIN
FRIENDS SHOULD RECOGNIZE AND RESPECT THIS FACT.

C. SOVIETS SEEM TO SUSPECT EC HARD-LINE
COMMITTEE I POSITION REPRESENTS EC OR WESTERN
DESIRE TO WRECK THE CONFERENCE. THIS IN TURN
SEEMS TO FEED THEIR SUSPICION OF WESTERN MOTIVES
ON NAVIGATION AND RELATED PROBLEMS (E.G., SHELF).
DURING RELAXED AFTER-DINNER CONVERSATION, THEY
SEEMED TO REFLECT ATTITUDE THAT ONLY THEY REALLY
WANT A TREATY. TOON

UNQUOTE CHRISTOPHER

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